

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SEP 08 2003

LORILLARD TOBACCO COMPANY,
a Delaware corporation,

Plaintiff,

v.

A & E OIL, INC., d/b/a MOBIL,

Defendant.

Civil Action No.

Judge

Magistrate Judge

JURY DEMANDED

03C 5833
JUDGE HART

MAGISTRATE JUDGE MASON
U.S. DISTRICT COURT
AUG 20 AM 10:00
FILED-ED4

[FILED UNDER SEAL]

**PLAINTIFF'S APPLICATION FOR *EX PARTE* SEIZURE ORDER, TEMPORARY
RESTRAINING ORDER, ORDER TO SHOW CAUSE FOR PRELIMINARY
INJUNCTION, AND ORDER EXPEDITING DISCOVERY**

Plaintiff Lorillard Tobacco Company ("Lorillard") hereby moves this Court for an *ex parte* seizure order pursuant to 15 U.S.C. § 1116(d), for a temporary restraining order and an order to show cause why a preliminary injunction should not issue pursuant to Rule 65 of the Federal Rules of Civil Procedure, and for an order permitting expedited discovery. Lorillard supports this Application with the accompanying Memorandum of Points and Authorities, the Declarations of R. Hamilton, Ed O'Brien, Victor Lindsley and Richard D. Harris, and on such other evidence and argument as the Court may consider.

In particular, Lorillard seeks an order directing the United States Marshal or other federal, state, or local law enforcement officer, accompanied by Lorillard's counsel and/or its agents, to seize and impound forthwith all of the following found at:

3642 West 79th Street
Chicago, Illinois

(a) All cigarettes and any other such goods or merchandise in Defendant's possession, custody or control at any location, bearing or intended to bear any counterfeit, copy, or substantially indistinguishable designation of one or more of Lorillard's registered trademarks LORILLARD®, NEWPORT®, NEWPORT® (stylized), Spinnaker and Design®, and NEWPORT and Design® (together the "Lorillard Marks");

(b) All means of making any counterfeits, copies, or substantially indistinguishable designations of or for any Lorillard Marks;

(c) All records documenting or reasonably appearing to document or relate to the manufacture, importation, purchase, sale, distribution, or receipt of any merchandise bearing any Lorillard Marks, or intended to bear any counterfeit, copy, or substantially indistinguishable designations of or for any Lorillard Marks, or other things involved in such violation, including all merchandise or means of making such merchandise, and all such records and things under the control of Defendant.

Lorillard also seeks a temporary restraining order and a preliminary injunction enjoining and restraining Defendant, and any of its agents, servants, employees, confederates, and attorneys, and any persons acting in concert or participation with Defendants, from directly or indirectly:

(i) using the Lorillard Marks or any reproduction, counterfeit, copy, or colorable imitation of any of the Lorillard Marks in connection with the importation, sale, offering for sale, or distribution of cigarettes in the United States;

(ii) using the Lorillard Marks or any reproduction, counterfeit, copy, or colorable imitation of any of the Lorillard Marks in any manner likely to cause others to believe that Defendant's products are connected with Lorillard or are genuine Lorillard products, if they are not;

(iii) passing off, inducing, or enabling others to sell or pass off any merchandise which is not genuine Lorillard merchandise as and for genuine Lorillard merchandise;

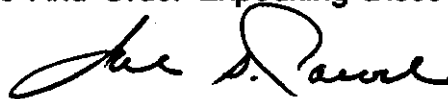
(iv) making any false or misleading statements regarding Lorillard or its respective goods, or the relationship between Lorillard, on the one hand, and Defendants or their goods, on the other hand;

(v) committing any other acts calculated to cause purchasers to believe that Defendants' products are genuine Lorillard products, if they are not;

(vi) importing, shipping, delivering, holding for sale, distributing, returning, transferring, or otherwise moving or disposing of in any manner such cigarettes or packaging falsely bearing one or more of the Lorillard Marks or any reproduction, counterfeit, copy, or colorable imitation of the same; and

(vii) assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in the above paragraphs (i) through (vi).

The specific order sought by Lorillard is set forth in Lorillard's [Proposed] *Ex Parte* Seizure Order, Temporary Restraining Order, Order to Show Cause For Preliminary Injunction, Order Sealing File And Order Expediting Discovery, submitted herewith.



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Dated: August 15, 2003